

201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134  
+1 650 802 3000 tel  
+1 650 802 3100 fax

**Weil, Gotshal & Manges LLP**

**Edward R. Reines**  
+1 650 802 3022  
edward.reines@weil.com

July 22, 2011

The Honorable Jan Horbaly  
Clerk of Court  
United States Court of Appeals  
for the Federal Circuit  
717 Madison Place N.W.  
Washington, DC 20439

VIA FEDERAL EXPRESS

**RECEIVED**

JUL 25 2011

United States Court of Appeals  
For the Federal Circuit

Re: **Soverain Software LLC. v Newegg Inc. 2011-1009**

Dear Mr. Horbaly:

Pursuant to Federal Rules of Appellate Procedure 28(j), appellant Newegg Inc. ("Newegg") would like to bring to the Court's attention the following citation of supplemental and supervening authority:

*Global-Tech Appliances, Inc. v. SEB S.A.*, \_\_\_ U.S. \_\_\_, 131 S. Ct. 2060, 98 U.S.P.Q.2d 1665 (May 31, 2011).

The U.S. Supreme Court's decision in *Global-Tech*, issued after the parties' briefs in this case, is pertinent to the "active inducement" issue addressed by Newegg at pages 36 to 37 of its Brief of Appellant and pages 14-15 of its Reply Brief of Appellant.

*Global-Tech* holds that: (1) induced infringement under 35 U.S.C. section 271(b) requires knowledge that the induced acts constitute patent infringement; and (2) while the doctrine of "willful blindness" may support a finding of knowledge, that doctrine requires that the defendant subjectively believe that there is a high probability that a fact exists, and that the defendant takes deliberate actions to avoid learning that fact.

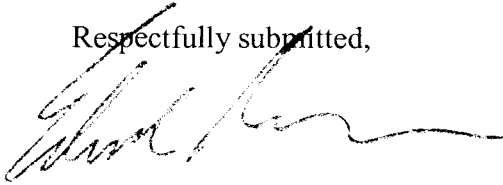
*Global-Tech* states the controlling law that should be applied by this Court on the active inducement issue. See *Forshey v. Principi*, 284 F.3d 1335, 1356-57 (Fed. Cir. 2002). Moreover, *Global-Tech* forecloses appellee Soverain Software LLC's erroneous position that the active inducement issue has been waived by Newegg. "[A]ppellate courts will consider an issue not raised at trial 'where a supervening decision has changed the law in appellant's favor and the law was so well-settled at the

The Honorable Jan Horbaly  
Clerk of Court  
July 22, 2011  
Page 2

**Weil, Gotshal & Manges LLP**

time of trial that any attempt to challenge it would have appeared pointless.” *Id.* at 1356; *quoting United States v. Washington*, 12 F.3d 1128, 1139 (D.C. 1994).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Reines", with a long horizontal flourish extending to the right.

Edward R. Reines  
Principal Attorney

cc: Robert B. Wilson  
Principal Attorney

201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134  
+1 650 802 3000 tel  
+1 650 802 3100 fax

**Weil, Gotshal & Manges LLP**

**Karen A. Gotelli**  
+1 650 802 3115  
karen.gotelli@weil.com

July 22, 2011

VIA FEDERAL EXPRESS

The Honorable Jan Horbaly  
Clerk of Court  
United States Court of Appeals  
for the Federal Circuit  
717 Madison Place N.W.  
Washington, DC 20439

**Re: Sovereign Software LLC. v Newegg Inc. 2011-1009**

Dear Mr. Horbaly:

Enclosed please find an original and six copies of Newegg's Citation of Supplemental Authority in the above-captioned matter. An extra copy and a self-addressed return envelope have also been enclosed for return of a file-stamped copy.

Please do not hesitate to contact me should you require any additional information. Thank you.

Respectfully submitted,



Karen A. Gotelli  
Assistant to Edward R. Reines  
Principal Attorney

cc: Robert B. Wilson  
Principal Attorney